

JEAN R. URANGA
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OCCUPATIONAL LICENSES

BEFORE THE STATE BOARD OF COSMETOLOGY

STATE OF IDAHO

In the Matter of the)	
Licenses of:)	Case Nos. COS-2007-31
)	COS-2007-32
AWESOME NAILS & SPA,)	
License No. CS-233516, and)	
)	FINDINGS OF FACT,
DUNG ANH LE,)	CONCLUSIONS OF LAW
License No. NT-221626,)	AND RECOMMENDED ORDER
)	
Respondents.)	
)	

This matter came on for hearing on January 5, 2009, before Jean R. Uranga, the designated Hearing Officer. The Board of Cosmetology was represented by its Deputy Attorney General, Karin Magnelli. Mr. Le personally and as owner of Awesome Nails & Spa appeared in person without an attorney.

Both parties submitted testimony and evidence.

FINDINGS OF FACT

1. The Board of Cosmetology presented two witnesses, John Mereen and Rochelle Mereen. The Respondents presented the testimony of Dung Anh Le.

2. Mr. Le holds Nail Technology License No. NT-221626. He was first licensed October 17, 2002.

3. Mr. Le owns a cosmetology establishment known as Awesome Nails, License No. CS-233516. That facility was first licensed October 13, 2006.

4. Mr. Le is married to Isabelle Santi.

5. Mr. Le was subject to a prior disciplinary Final Order issued by the Board of Cosmetology August 11, 2005, based upon violations of the Idaho Cosmetology Act. In addition, a disciplinary order was entered against Mr. Le's wife, Isabelle Santi, and their prior establishment, Boise Nails. Part of the basis for the disciplinary sanctions was the presence of a dog in the shop in violation of Idaho law.

6. An appeal was taken from those two disciplinary proceedings and a combined Stipulation and Order was entered into by all parties July 12, 2006. A copy of that Stipulation and Consent Order was signed by both Mr. Le and Ms. Santi and was accepted and approved by the Board of Cosmetology July 27, 2006.

7. Beginning on Page 3, of the July 21, 2006, Stipulation and Consent Order, Mr. Le and Ms. Santi stipulated to certain disciplinary sanctions, including an acknowledgment that they violated the Idaho Cosmetology Act. Paragraph 6 specifically states Mr. Le understood and agreed he must comply with all other conditions and responsibilities imposed by the Final Order of the Board. The Final Order of the Board with respect to Mr. Le was

admitted as Exhibit 2. Paragraphs 3.c and 3.d of that Order specifically provided for suspension of Mr. Le's license for a period of time and placing him on probation for two (2) years. Consequently, Mr. Le was on probation from July 27, 2006, to July 27, 2008.

8. By Complaint dated October 2, 2008, another disciplinary Complaint was filed against Mr. Le based upon an allegation that, while on probation, on April 28, 2007, Mr. Le had a dog present at Awesome Nails & Spa and had baby chicks in the spa.

9. The Hearing Officer finds that on April 28, 2007, a Saturday, John Mereen, an investigator for the Bureau of Occupational Licenses, drove his wife, Rochelle Mereen, to the Awesome Nails location to have a pedicure done. They arrived at Awesome Nails around 6:00 p.m.. The business was open and Rochelle Mereen went in to have a pedicure. Mr. Mereen returned about 6:45 p.m. and parked outside the salon. The open sign was on and his wife and another customer were still receiving services.

10. Mr. Mereen saw a grey Scottish Terrier walking around in the salon. After his wife's pedicure was completed, he asked his wife to wait in the car and entered the premises. Mr. Le admitted to Mr. Mereen that he knew there was not supposed to be a dog in the salon.

11. Rochelle Mereen testified that, while she was getting her pedicure, she also heard peeping sounds and Ms. Santi stated the noises were from baby chicks in the back of the salon.

12. As a defense, Mr. Le testified that the business was closed on Saturday, April 28, 2007; however, the Hearing Officer finds that, in fact, the salon was open since services were being provided to at least two customers.

13. Mr. Le further stated he did not know he was on probation. Claimed ignorance of the Order is no defense since, in fact, Mr. Le signed the settlement documents and was represented by counsel at the time.

14. The Hearing Officer finds that, on April 28, 2007, Mr. Le and Awesome Nails had a dog and baby chicks present in the shop on that date.

CONCLUSIONS OF LAW

15. The burden of proof in this administrative proceeding is preponderance of the evidence. The Board of Cosmetology carries the burden of proof.

16. Pursuant to the Cosmetician's Act, licenses are issued for cosmetological establishments and separate licenses for nail technicians.

17. As noted in the Findings of Fact, on or about April 28, 2007, Mr. Le and Awesome Nails had a dog and baby chicks in the shop. Such conduct by Respondents violates Idaho Code §54-816(8) and IDAPA 24.04.01.800.11.

RECOMMENDED ORDER

Based upon the foregoing, the Hearing Officer recommends that the Board impose such disciplinary sanctions as it deems appropriate.

ate taking into consideration that Respondents have a prior history of disciplinary sanctions.

DATED This 28 day of January, 2009.

JEAN R. URANGA

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Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 28 day of January, 2009, I served true and correct copies of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to:

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